

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 474 of 2016**

1. Narendra Kumar S/o Late Keju Das Vaishnav aged about 52 years,
2. Usha Devi W/o Narendra Kumar Vaishnav aged about 42 years.

Both are R/o Village- Jarhagaon, Thana- Jarhagaon, District- Mungeli (C.G.).

---- Appellants/Claimants**Versus**

1. Sukhi Ram Pal S/o Khorbahara Ram aged about 45 years.
Village- Sangawakapa, Thana- City Kotwali Mungeli, Distt.- Mungeli (C.G.).
Driver of offending vehicle Truck No. C.G. 10-Z.B./0642.
2. Jaipal Sahu S/o Panch Ram Sahu aged about 48 years. R/o Village- Daupara Mungeli, Distt.- Mungeli (C.G.).
(Owner of offending vehicle Truck No. C.G. 10-ZB/0642).
3. Iffco Tokiyo General Insurance Company Limited. First Floor Galaxy Hight, Near Sanjay Apartment Byapar Vihar Bilaspur Distt.- Bilaspur (C.G.).
Insurer of offending vehicle truck No. C.G. 10-Z.B./0642.

---- Respondents

For Appellants	:	Shri A. L. Singroul, Advocate.
For Respondent No.3	:	Shri Amrito Das, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****06.03.2019**

This appeal is by the claimants against the award dated

29.02.2016, passed by Additional Member to the Court of Additional Motor Accident Claims Tribunal, Mungeli (C.G.) in Claim Case No.74/2015 awarding total compensation of 5,21000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.

02. As per claim petition, on 26.06.2013, deceased -Devraj @ Nikku Vaishnav, aged about 25 years, earning Rs. 1,35,000/- per annum as petty contractor, died in the motor vehicle accident caused due to rash and negligent driving of vehicle (truck) bearing registration No. CG 10-ZB/0642 by non-applicant No.1- Sukhram Pal. The offending vehicle is owned by non-applicant No. 2 & insured by non-applicant No. 3.

03. On claim petition being filed by the claimants/parents of the deceased- Devraj @ Nikku under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel for the appellants/claimants argues only on the ground that the deceased was working as petty contractor but the learned Tribunal considered the income of the deceased as Rs. 3,000/- which is on very lower side. He further submits that the amount awarded under the conventional heads and the amount awarded towards loss of filial and other consortium also being on the lower side deserves to be enhanced suitably.

In support of above contention, reliance has been placed on the decision of the Hon'ble Supreme Court in the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680, Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors. In civil appeal No. 9581 of 2018 arising out of SLP[Civil] No. 3192 of 2018.***

05. On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that looking to the age of the deceased i.e. 25 years & nature of job (as petty contractor),

40% future prospect should be added into the income of the deceased but the learned Tribunal has considered 50% into this head which should be reduced according to law. He further submits that except to the aforesaid ground the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.

06. Heard learned counsel for the parties and perused the material available on record.

07. It is not disputed that at the time of accident, the claimant was working as petty contractor but no any proof or any other evidence regarding his income was produced or proved by him before the Tribunal, therefore, the learned Tribunal considered income of the claimant as Rs. 3,000/-pm. The accident occurred in the year 2013, therefore, being a skilled person, as per minimum wages prevailing at the relevant time, the income of the claimant as Rs. 4,500/-pm can safely be considered. Looking to the age of the deceased as 25 years, and working as petty contractor, 40 % future prospect would be added to the income of the deceased instead of 50%. In the light of Supreme Court judgment **Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors. (supra)**, the amount awarded towards pain & suffering and love & affection to the parents of the deceased as Rs. 10,000/- by the Tribunal is kept intact. Further, considering the age of the deceased and the decision of the Hon'ble Supreme Court in **Pranay Sethi, (supra)**, the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.4500/- per month.	Rs. 4500x 12= Rs. 54000/- per annum
02.	40% of (1) above to be added towards future prospects.	Rs. 54000+ 21600= Rs. 75600/-
03.	After 1/2nd deduction towards personal	Rs. 75600 -37800=

	and living expenses of the deceased	Rs.37800/-
04.	Multiplier of 18 to be applied	Rs. 37800x18= Rs. 680400/-
05.	Towards loss of funeral expenses & loss of Estate	Rs. 30,000/-
06.	Toward filial consortium	10,000/- (as awarded by the Tribunal)
08.	Total Compensation	Rs. 7,20,400/-

Since the Tribunal has already awarded Rs.5,21,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.1,99,400/-with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

08. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

Sd/-

(Gautam Chourdiya)

Judge